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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
MITSUBISHI INTERNATIONAL	:	08 CV 00194 (JSR) (GWG)
CORPORATION,	:	
	:	<u>REPLY AFFIDAVIT</u>
Plaintiff,	:	
	:	
-against-	:	ECF Case
	:	
INTERSTATE CHEMICAL CORPORATION,	:	
	:	
Defendant.	:	
-----X	:	

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss.:

ZACK FERGUSON-STEGER, being duly sworn, deposes and says:

1. I am the marketing manager of Mitsubishi International Corporation ("MIC"). I have personal knowledge of the facts set forth in this reply affidavit, which I make in further support of plaintiff's motion for summary judgment.

Delivery Date of Methanol

2. Interstate's allegations that there was some sort of confusion over the delivery date of the barge of methanol are disingenuous. When MIC agreed to sell the methanol to Interstate, we knew we had a vessel with methanol due to arrive about mid-December 2007.

3. Because of potential delays of vessels, MIC always builds a few days of leeway into its delivery dates to make sure it can commit to its sales obligations, and hence only agreed to sell as long as Interstate could accept the shipment. We accordingly told Interstate we could deliver on or after December 20.

4. At the time of the sale to Interstate, the barge of methanol was part of MIC's floating inventory -- that is, it was on our balance of inventory, and we planned to deliver it to Interstate as per our agreement. As shown in MIC's inventory records for December 2007, the relevant portions of which are annexed hereto as Exhibit 3, MIC had sufficient methanol in its inventory to delivery to Interstate on December 20.

5. MIC's methanol sales commitments rely upon availability of methanol from Venezuela or other sources. It is not practicable for MIC to keep methanol on inventory indefinitely once it receives a shipment from a supplier; instead, MIC arranges to sell the methanol based on what its suppliers have committed to provide to MIC.

6. As a result, and as happened with Interstate, MIC does not commit to one specific delivery date, because that date depends in part upon a variety of external factors, such as dock availability, arrival of the buyer's barge, and the weather.

Rather, as it did here, MIC committed to a delivery date of December 20 "or later."

7. According to industry practice in the bulk chemical sales industry, contract shipment timing is agreed to on a case-by-case basis. The most common shipment period is the calendar month. However, if the seller has restrictions on part of the month, it can specify restricted periods. In this case, the period started on December 20, 2007, as MIC would not guarantee product availability at an earlier date.

8. Once the delivery period is set, the buyer needs to give the seller five working days' notice for the exact shipment day, according to industry practice.

9. If Interstate required an exception to this standard, it could have said so at the time the parties negotiated the agreement.

10. MIC would not have committed to one definitive sales date when it agreed with Interstate because, if it then turned out that MIC could not deliver until a day or two later, it faced exposure for damages to Interstate if MIC could not deliver on a specified date.

11. I do not recall the phone call Ms. Cirillo alleges we had on December 13, 2007, and MIC has no record of such a call. In any event, as shown in Exhibit 3, MIC had sufficient methanol

in its inventory to deliver to Interstate on the agreed-upon delivery date.

12. Ms. Cirillo did not, in any event, make any objections to the contract at any time based on the delivery date.

US Coast Guard Issue

13. Interstate's assertion that its purchase of methanol from MIC was conditioned upon Interstate's customer's ability to take delivery of the barge in Owensboro, Kentucky is incorrect.

14. At no time before December 18, 2007 did Ms. Cirillo, or anyone from Interstate, mention to me that there might be a problem with its customer taking delivery of the barge, or that Interstate's agreement with MIC was contingent upon a third party's ability to take delivery of the barge.

15. MIC has no interest in what Interstate does with the purchased materials or to whom Interstate resells. MIC's contracts are only with its direct customers and are not contingent on the actions of third parties.

16. Had Interstate's ability to receive the barge been in doubt, MIC would not have agreed to sell to Interstate. Instead, MIC would have sold the barge to another customer at the same price.

Spot Price of Methanol

17. The Jim Jordan & Associates, LLP Global Methanol Report submitted by Interstate (Puntureri Aff., Ex.) is not a definitive statement of the price of methanol on the spot market in December 2007.

18. As shown by the DeWitt Methanol Newsletter covering the same time period, attached hereto as Exhibit 4, the price of methanol did indeed go down to \$2.05 per gallon at the end of December 2007.

19. In late December 2007, the methanol market was very thin, and prices were falling. MIC sold the barge Interstate refused to accept on December 21, the last open day before year-end holidays, when most of the market participants were already closed. Liquidity was therefore limited.

20. Prices continued falling throughout early 2008. Had MIC delayed further in selling the barge Interstate refused to purchase, it would have incurred further damages.

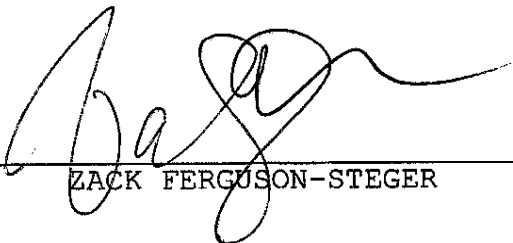
Sale of Barge to Tauber Petrochemical Company

21. Interstate's insinuation that MIC sold the methanol for less than it could have received on the spot market is incorrect. Nor is there any sort of special business relationship between Tauber Petrochemical Company ("Tauber") and MIC. Tauber and MIC are, in fact, competitors.

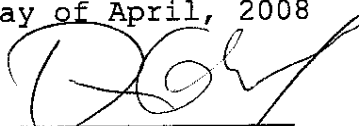
22. Once it became clear that Interstate was not going to perform the purchase contract, MIC, in the face of falling methanol prices, had to arrange a sale of the barge of methanol as quickly as possible. The most efficient way to do this, and the way MIC makes many sales, was through an independent broker, who, as is customary, received a commission for arranging the sale. This broker connected MIC as a seller with Tauber as a buyer, for the highest price possible at the time.

23. MIC wanted to, and did, sell for the highest price it could get at the time, faced with falling markets, when it became apparent, after Interstate failed to reply to MIC's ultimatum, that Interstate would not fulfill its obligation. Had MIC waited longer to sell, it would have lost even more money on the sale.

24. For these reasons, and those in MIC's original moving papers, MIC's motion for summary judgment should be granted.


ZACK FERGUSON-STEGER

Sworn to this 18
day of April, 2008


Notary Public

DIANE G. KNOX
Notary Public, State of New York
No. 02KN6000525
Qualified in New York County
Commission Expires April 12, 2010

Exhibit 3

Run Date - 4/17/08 Time - 15.19.24				Co - NO International Water--New Orleans				Page -	
Location - St. Rose, Louisiana				CUMULATIVE INVENTORY LISTING FOR 12/07 THROUGH 12/07				Run by - RJH	
								Report - IN480	
								From - B8	

Run Date - 4/17/08 Time - 15.19.14
Location - St. Rose, Louisiana

Co - NO International Matex--New Orleans
CUMULATIVE INVENTORY LISTING FOR 12/07 THROUGH 12/07

Page - 2
Run by - TJH Report - IN480
From - 98

INV. DATE	P.O. NO.	RECEIPTS	VEHICLES	TRANSFERS IN	DELIVERIES	TRANSFERS OUT	PENDING BAL. BOOK BASED	BOOK BALANCE	INV. UNIT	BILL. UNIT	CUST. NO.	PROD. CODE	TANK CAP.	BILL NO.
2007	TANK 116	PRODUCT - 742 METHANOL												
12/05 302	1 TANK TRUCK	51391 B			6,939			996,803		GL	02638	742	4,788,000	07/12
12/06 303	UTLX-204890	51382 B			28,920			967,883						07/12
12/06 304	UTLX-204893	51382 B			26,786			939,097						07/12
12/06 305	1 TANK TRUCK	51401 B			6,987			932,110						07/12
12/07 306	UTLX-203635	51394 B			28,685			903,425						07/12
12/07 307	TILX-197968	51394 B			28,894			874,531						07/12
12/09 308	1 TANK TRUCK	51410 B			6,939			867,592						07/12
12/10 309	UTLX-201091	51400 B			28,095			839,497						07/12
12/10 310	UTLX-203258	51400 B			28,904			810,593						07/12
12/10 311	1 TANK TRUCK	51414 B			6,428			804,165						07/12
12/11 312	AMBASS NORRIS	SRC-46						2,133,918						07/12
	51388 B	1,329,753												

* * CONTINUED * *

C:PORTSIDE:

Run Date - 4/17/08 Time - 15.19.14
 Location - St. Rose, Louisiana

Co - NO International Matex--New Orleans
 CUMULATIVE INVENTORY LISTING FOR 12/07 THROUGH 12/07

Page - 3
 Run by - TJH Report - IN480
 From - B8

INV. DATE	P.O. NO.	RECEIPTS	VEHICLES	TRANSFERS IN	DELIVERIES	TRANSFERS OUT	PENDING BAL.	BOOK BASED	BOOK BALANCE	INV. UNIT	BILL. UNIT	CUST. NO.	PROD. CODE	TANK CAP.	GL
2007	TANK 115	PRODUCT - 742 METHANOL													
12/11	313	1 TANK TRUCK													
		51416 B													
12/12	314	TR TO 106 02639													
		51411 B													
12/13	315	SHEX-205211													
		51419 B													
12/13	316	TILX-197955													
		51419 B													
12/13	317	2 T/T'S													
		51431 B													
12/14	318	1 TANK TRUCK													
		51440 B													
12/17	319	2 T/T'S													
		51446 B													
12/18	320	NATX-300362													
		51439 B													
12/18	321	UTLX-201197													
		51439 B													
12/18	322	1 TANK TRUCK													
		51456 B													
12/19	323	NM-1026													
		51420 B													

C:ACBL: D:2007-12-201: 422,616

CUSTOMER - 02638 MITSUBISHI

* * CONTINUED * *

2,127,053

1,697,817

1,669,255

1,640,360

1,626,488

1,624,493

1,613,534

1,585,147

1,556,724

1,550,239

1,127,623

6,865

28,562

28,895

13,872

1,995

10,959

28,387

28,423

6,465

Run Date - 4/17/08 Time - 15.19.14 Co - NO International Matex--New Orleans Page - 4 Report - IN480
Location - St. Rose, Louisiana CUMULATIVE INVENTORY LISTING FOR 12/07 THROUGH 12/07 Run by - TJH From - B8

VEHICLES		TRANSFERS IN		TRANSFERS OUT		PENDING BAL.		BOOK BALANCE		INV. UNIT		BILL NO.	
INV. DATE	P.O. NO.	RECEIPTS	TRANSFERS IN	DELIVERIES	TRANSFERS OUT	BOOK BASED	BOOK BALANCE	INV. UNIT	BILL NO.	GL	INV. UNIT	BILL NO.	
2007	TANK 116	PRODUCT - 742 METHANOL											
12/19 324	2 T/T'S			10,929									
12/19 325	51461 B												
12/19 326	TILX-192007			28,883									
12/19 327	51449 B												
12/20 328	TILX-197957			29,035									
12/20 329	51449 B												
12/20 330	UTLX-206238			28,622									
12/20 331	51453 B												
12/21 332	UTLX-209535			28,712									
12/21 333	51453 B												
12/21 334	3 T/T'S			17,936									
12/21 335	51474 B												
12/21 336	TILX-197956			29,100									
12/21 337	51458 B												
12/21 338	UTLX-203276			28,711									
12/21 339	51458 B												
12/26 340	ACEX-76573			28,591									
12/26 341	51470 B												
12/26 342	SHPX-205203			28,689									
12/26 343	51470 B												
12/26 344	1 TANK TRUCK			6,476									
12/26 345	51486 B												

* * CONTINUED * *

Run Date - 4/17/08 Time - 15.19.14 Co - NO International Mater--New Orleans Page - 5 Report - IN480
 Location - St. Rose, Louisiana CUMULATIVE INVENTORY LISTING FOR 12/07 THROUGH 12/07 Run by - TJH From - B8

VEHICLES				TRANSFERS IN		DELIVERIES		TRANSFERS OUT		PENDING BAL.		BOOK BALANCE		BILL MO.	
INV. DATE	P.O. NO.	RECEIPTS	PRODUCT	TANK 116	742 METHANOL									INV. UNIT	GL
2007														BILL. UNIT	
														CUST. NO.	02638
														PROD. CODE	742
														TANK CAP.	4,788,000
12/27	OTLX-201088														07/12
335	51481 B					28,424						833,515			
12/27	TILX-190019														07/12
336	51481 B					28,018						805,497			
12/27	1 TANK TRUCK														07/12
337	51494 B					7,006						798,491			
12/28	3 T/T'S														07/12
338	51503 B					17,462						781,029			
12/29	OTLX-201921														07/12
339	51497 B					28,498						752,531			
12/29	OTLX-203816														07/12
340	51497 B					28,951						723,580			
12/29	JOSE BRIGHT														07/12
341	51477 B											1,479,780			
12/30	1 TANK TRUCK														07/12
342	51504 B					6,532						1,473,248			
12/31	ADJUSTMENT BY GAUGE														Y 07/12
343	B					6,734- ADJ						1,466,514			
2008															
TOTALS				2,085,953	0	1,389,489						1,296,541			

Exhibit 4

METHANOL & DERIVATIVES**Issue 489– DeWitt Methanol Newsletter – December 21, 2007**

US Methanol	December***			Nov		Nov
	USD/Ton	USD/Gal	Tre	USD/Ton	USD/Gal	Average
Barge Pricing						
* Contract Barge (GC), Net Non-Disc.	832 – 931	2.50 – 2.80	↑	665 – 682	2.00 – 2.05	2.025
** Contract Transaction	Pending	Pending	↑	664 – 680	1.996 – 2.046	2.0225
***Spot Barges week Dec 17-21 (GC)	682 – 741	2.05 – 2.23	↓	805 – 981	2.42 – 2.95	2.758
Truck/Rail Pricing						
	Dec	Dec		Nov	Nov	Nov
Distribution Prices: List Prices, Non-Disc.	USD/MT	USD/GAL		USD/MT	USD/GAL	USD/GAL
Truck/Railcar USGC	1014 – 1064	3.05 – 3.20	↑	775 – 788	2.33 – 2.37	2.35
Truck/Railcar USEC	1014 – 1064	3.05 – 3.20	↑	788 – 798	2.37 – 2.40	2.385
Truck/Railcar Chicago	1097 – 1330	3.30 – 4.00	↑	831 – 848	2.50 – 2.55	2.525
Southern Chemical, Net/Net price USGC	1014	3.05	↑	748	2.25	2.25
USEC	1014	3.05	↑	748	2.25	2.25
Ashland Methanol, Bench Mark USGC	NA	NA	↑	738	2.22	2.22
Chicago	NA	NA	↑	788	2.37	2.37

*Contract Barge, Net Non Disc. Includes List Prices and Contract Barge Non Discounted Ref. Price

The contract transaction prices listed herein are DeWitt's view for large buyers (25mm gal/yr) FOB GC based on extensive industry surveys. Some contracts may contain discounts not reflected in these prices. Spot prices on this page are for current month business conducted FOB Houston, volumes of 10,000 BBL or greater. *Average prices are the weighted average for the month specified

Western Europe Methanol	December		3Q
	Euro/Ton	USD/Ton	Average
Methanol 4Q 2007 Contract FOB R'dam	380	544	↑ Euro 218
Methanol Spot - FOB R'dam T2	460 / 480	676 / 706	↓ Euro 233.42
1 US Dollar = 0.6982 Euro			

Asia Pacific Methanol	December		November
21 Dec 07	USD/Ton	Trend	USD/Ton
Korea – CFR, frame contract*	Pending	Pending	Pending
Taiwan – CFR, term/spot (nominal)	560-580	down	540-600
China – CFR, spot (nominal)	370-380	down	410-460
SEA – CFR, spot (nominal)	570-580	down	540-600
WC India – CFR, spot (nominal)	560-570	down	540-600
Methanex Dec 2007 APCP: USD 720/mt			
May Korea frame: USD 280 CFR			

Natural Gas Prices (\$/MM BTU)	Feb	Jan	Dec	Nov
Houston Ship Channel – "Inside FERC" Index	N/A	N/A	6.87	6.92
Henry Hub – Inside FERC Index	N/A	N/A	7.21	7.27
NYMEX Henry Hub Futures (contract expired at)	N/A	N/A	7.203	7.27
NYMEX Henry Hub Futures contract 12-21	7.237	7.137	N/A	N/A
Henry Hub (cash price) 12-21	N/A	N/A	7.17	N/A
Current Dollar Equivalents 12-21 Euro: 0.6982 GBP: 0.5043 Yen: 113.11 CND: 1.0011				

METHANOL & DERIVATIVES**Issue 490– DeWitt Methanol Newsletter – January 4, 2008**

US Methanol	January***			Dec		Dec
	USD/Ton	USD/Gal	Trend	USD/Ton	USD/Gal	Average
Barge Pricing						
* Contract Barge (GC), Net Non-Disc.	832 – 848	2.50 – 2.55	↓	832–931	2.50 – 2.80	2.65
** Contract Transaction	Pending	Pending	↓	829–929	2.495–2.795	2.6394
***Spot Barges week Dec 31-Jan 4 (GC)	682	2.05	↓	682–865	2.05 – 2.60	2.433
Truck/Rail Pricing						
	Jan	Jan		Dec	Dec	Dec
Distribution Prices: List Prices, Non-Disc.	USD/MT	USD/GAL		USD/MT	USD/GAL	USD/GAL
Truck/Railcar USGC	944 – 964	2.84 – 2.90	↓	1014–1064	3.05 – 3.20	3.13
Truck/Railcar USEC	944 – 964	2.84 – 2.90	↓	1014–1064	3.05 – 3.20	3.13
Truck/Railcar Chicago	1011 – 1044	3.04 – 3.14	↓	1097–1330	3.30 – 4.00	3.65
Southern Chemical, Net/Net price USGC	898	2.70	↓	1014	3.05	3.05
USEC	898	2.70	↓	1014	3.05	3.05
Ashland Methanol, Bench Mark USGC	NA	NA	↓	NA	NA	NA
Chicago	NA	NA	↓	NA	NA	NA

*Contract Barge, Net Non Disc. Includes List Prices and Contract Barge Non Discounted Ref. Price
 The contract transaction prices listed herein are DeWitt's view for large buyers (25mm gal/yr) FOB GC based on extensive industry surveys. Some contracts may contain discounts not reflected in these prices. Spot prices on this page are for current month business conducted FOB Houston, volumes of 10,000 BBL or greater. *Average prices are the weighted average for the month specified

Western Europe Methanol		January		4Q
	Euro/Ton	USD/Ton	Trend	Average
Methanol 1Q 2008Contract FOB R'dam	490	724	↓	Euro 380
Methanol Spot - FOB R'dam T2	430 / 470	635 / 694	↓	Euro 492
1 US Dollar = 0.6768 Euro				

Asia Pacific Methanol		January	December
4 Jan 2008	USD/Ton	Trend	USD/Ton
Korea – CFR, frame contract*	Pending	Pending	Pending
Taiwan – CFR, term/spot (nominal)	520-540	down	550-600
China – CFR, spot (nominal)	340-350	down	350-440
SEA – CFR, spot (nominal)	535-545	down	550-600
WC India – CFR, spot (nominal)	500-520	down	550-600
Methanex Jan 2008 APCP: USD 720/mt			
May Korea frame: USD 280 CFR			

Natural Gas Prices (\$/MM BTU)		Mar	Feb	Jan	Dec
Houston Ship Channel – "Inside FERC" Index		N/A	N/A	6.73	6.87
Henry Hub – Inside FERC Index		N/A	N/A	7.13	7.21
NYMEX Henry Hub Futures (contract expired at)		N/A	N/A	7.172	7.203
NYMEX Henry Hub Futures contract 1-4		7.698	7.674	N/A	N/A
Henry Hub (cash price) 1-4		N/A	N/A	7.82	N/A
Current Dollar Equivalents 1-4 Euro: 0.6768 GBP: 0.5065 Yen: 108.251 CND: 1.0022					